PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
42390P11775

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on November 29, 2006.

Signature

Typed or printed name Tu T. Nguyen

Application No.	Filed
09/965,224	September 27, 2001

First Named Inventor: Richard Qian

Art Unit	Examiner
2161	Etienne Pierre Leroux

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
NOTE: No more than five (5) pages may be provided.

I am the:

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under of 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ Attorney or agent of record.
Registration Number 42,034

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

Signature

Thinh V. Nguyen
Typed or printed name

(714) 557-3800
Telephone Number

November 29, 2006
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required.

☐ *Total of _____ forms are submitted.

Based on PTO/SB/33 (07-05) as modified by BSTZ (008/22/05 - WLR)
SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application. No.	:	09/965,224	Confirmation No. 3860
Applicant	:	Richard Qian	
Filed	:	09/27/2001	
TC/A.U.	:	2161	
Examiner	:	Etienne Pierre Leroux	
Docket No.	:	042390.P11775	
Customer No.	:	8791	

Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

In response to the Final Office action dated August 29, 2006, Applicant would like to request a pre-appeal panel review of the application.

Remarks/Arguments begin on page 2 of this paper.

REMARKS/ARGUMENTS

Claims 1-57 are pending in the present application.

This request is in response to the Final Office Action mailed August 29, 2006. In the Final Office Action, the Examiner rejected claims 1-3, 5, 6, 10, 11, 13, 20-22, 24, 25, 29, 30, 39, 40, 41, 43, 44, 48, and 49 under 35 U.S.C. §102(e); and claims 4, 7, 9, 12, 14-19, 23, 26-28, 31-38, 42, 45-47, and 50-57 under 35 U.S.C. §103(a).

Pre-appeal panel review of the application in light of the remarks/arguments made herein is respectfully requested.

There are several clear errors in the Examiner's rejections and arguments.

1. Claims 1-3, 5, 6, 10, 11, 13, 20-22, 24, 25, 29, 30, 39-41, 43, 44, 48, and 49 are not anticipated by Gutta:

In the Final Office Action, the Examiner rejected claims 1-3, 5, 6, 10, 11, 13, 20-22, 24, 25, 29, 30, 39, 40, 41, 43, 44, 48, and 49 under 35 U.S.C. §102(e) as being anticipated by U.S. Publication No. 2002/0186867 issued to Gutta et al. ("Gutta"). Applicant submits that the Examiner has not met the burden of establishing a prima facie case of anticipation.

Applicant refers to the response filed on June 13, 2006, pages 11-13. Among other things, Gutta merely discloses a camera capturing images of a user (Gutta, paragraph [0025]), not creating personal preference information. Images of a user are related to personal characteristics (Gutta, paragraph [0015]), but not personal preference. Furthermore, Gutta merely discloses the processing relating to recommendations based on personal characteristics may be located in a remote location, such as a server (Gutta, paragraph [0037]), not a content analyzer in an edge server. Gutta therefore teaches using user characteristics such as user's facial image to recommend selection of programs. Therefore, Gutta does not teach analyzing the content, but only teaches recommending the program. In contrast, the content analyzer analyzes the media content to extract a description compatible with personal preference information. In addition, Gutta merely discloses the data associating available programs with personal characteristics may be downloaded from a server via a modem or the Internet (Gutta, paragraph [0036]), or the user may change the time interval for which programs are recommended (Gutta, paragraph [0032]). In other words, Gutta teaches that the user may set the time interval during which programs are available for recommendation. Since the programs are set and shown on the TV at a scheduled time, they cannot be scheduled for delivery to individual users.

2. Claims 4, 12, 14-16, 18, 19, 23, 31-35, 38, 42, 50-54, 56 and 57 are not obivious over Gutta in view of Ibrahim:

Applicant refers to the response filed June 13, 2006, pages 13-15. Among other things, Ibrahim merely discloses a user description scheme to include the user's personal preferences and user's viewing history. This is not the same as a personalization engine to create personal preference information in a description compatible with a content analyzer in an edge server. Furthermore, Ibrahim merely discloses the usage preferences description may be used in cooperation with an MPEG-7 compliant data stream (Ibrahim, paragraph [0222]), not the metadata, associated with a content, being MPEG-7.

3. Claims 7, 26, 28, and 45 are not obvious over Gutta in view of Olstad:

Applicant refers to the response filed on June 13, 2006, page 15. Among other things, the Olstad cache content here merely refers to a search content which includes only requests, user information, result code for the web request, hash values for document content, document information, access statistics and databases of hosts or sites (Olstad, paragraphs [0051] to [0065]). These are not contents scheduled to be delivered to the user. Furthermore, Olstad does not disclose a distributor to distribute the retrieved cached content to a device.

4. Claims 8, 9, 27, 46, and 47 are not obvious over Gutta and Olstad and further in view of Crump:

Applicant refers to the response filed on June 13, 2006, page 16. Among other things, Crump merely discloses an address decoder to select the next set. An address decoder is not the same as a decryptor. The cache used in the Crump is the cache memory used in a multiprocessor system, not a cache used in communication networks to deliver contents. Furthermore, Crump does not disclose an archiver to archive the cached content.

5. Claims 17, 36, 37, and 55 are not obvious over Ibrahim in view of Logan:

In the Final Office Action, the Examiner states that Logan discloses a parser to parse the metadata (Final Office Action, page 8). Applicant refers to the response filed on June 13, 2006, pages 16-17. Among other things, the metadata parsed by the parser are not metadata associated with the content scheduled to be delivered with personalized information. Claims should be interpreted consistently with the specification, which provides content for the proper construction of the claims because it explains the nature of the patentee's invention. See Renishaw P.L.C. v.

Marposs Societa Per Azioni, 158 F.3d 1243 (Fed. Cir. 1998). Here, the term "metadata" should be interpreted to be associated with the content.

Therefore, Applicant believes that independent claims 1, 10, 20, 29, 39, 48 and their respective dependent claims are distinguishable over the cited prior art references. Accordingly, Applicant respectfully requests the rejections under 35 U.S.C. §102(e), and 35 U.S.C. §103(a) be withdrawn.

Accordingly, Applicants respectfully request the Review Panel render a decision allowing the application.

Conclusion

Applicant respectfully requests the Review Panel render a decision allowing the application.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: November 29, 2006 By

Thinh V. Nguyen
Reg. No. 42,034
Tel.: (714) 557-3800 (Pacific Coast)

12400 Wilshire Boulevard, Seventh Floor
Los Angeles, California 90025

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8A)

I hereby certify that this correspondence is, on the date shown below, being:

MAILING

☒ *deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.*

Date: November 29, 2006

FACSIMILE

☐ *transmitted by facsimile to the Patent and Trademark Office.*

November 29, 2006

Tu Nguyen *Date*